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10/567,247	02/20/2007	Roger Arnold Stromsoe	ADMS-0011	4587

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EXAMINER
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SCHILLER, ALINA

ART UNIT	PAPER NUMBER
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3671

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04/28/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/567,247	<b>Applicant(s)</b> STROMSOE, ROGER ARNOLD	
	<b>Examiner</b> ALINA SCHILLER	<b>Art Unit</b> 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

**DETAILED ACTION*****Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, an engagement formation on the link (claim 2); a pair of lifting arrangements disposed on opposite sides of the roller (claim 16) and the impact compactor being self-propelled (claim 14) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The disclosure is objected to because of the following informalities: the proper headings (Field of the Invention, Background of the Invention, Summary, etc) are missing.

Appropriate correction is required.

### ***Claim Objections***

Claim 16 is objected to because of the following informalities: the word "and" before "a pair of" in line 2 should be deleted. Appropriate correction is required. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 4, 11, 12, 15 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Regarding claims 4 and 11, the word "particularly" (claim 4, lines 2 and 4; claim 11, line 2) renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

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Regarding claim 15, it is unclear if a pair of non-round rollers is in addition to the non-round roller in the independent claim 1.

Regarding claim 16, it is unclear if the pair of lifting arrangements is in addition to the lifting arrangement from independent claim 1.

Regarding claims 15 and 16, the expression "as defined" renders the claims vague and indefinite.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berrange 3,966,346 in view of Jeffery 4,147,448.**

Regarding claim 1, Berrange discloses an impact compactor (as seen in Fig. 3), comprising:

a chassis structure (26) having wheels for supporting the structure above the ground (col. 3, lines 1-3);

a non-round roller (12) carried on an axle assembly (14) mounted on the chassis structure via a pivotally located drag link (24); and

a lifting arrangement for lifting the location of the non-round roller with respect to the chassis structure to a raised level at which the roller is spaced above the

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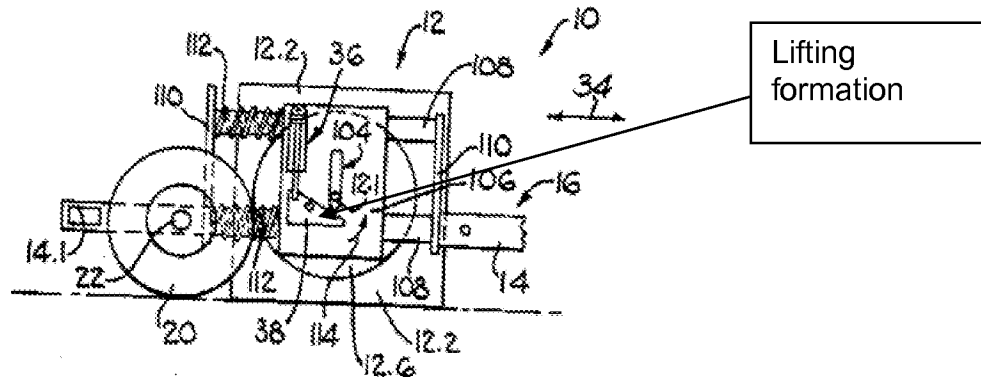
ground on which the chassis structure is supported by its wheels, the lifting arrangement including a lifting arm (33; col. 3, lines 35-41) having a dependent lifting formation (33.1), that can engage the axle assembly carried by the drag link, when displaced operatively upwardly, and a piston/cylinder mechanism (32) operatively connected between the lifting arm and the chassis structure (col. 3, lines 35-41; col. 4, lines 1-8; Fig. 3).

However, Berrange fails to disclose that the lifting arm is located above the drag link.

Jeffrey teaches that it is well known in the art to have a lifting arm (38, Fig. 17) with a depending lifting formation (as seen in the modified picture below taken from Fig. 17) and a piston/cylinder mechanism (36) which is extensible to pivot the lifting arm in the direction of arrow (114) thereby to engage and raise the roller axle (12.1), to lift the roller from the ground (col. 19, lines 14-16), having a connection point for lifting the roller higher (as seen in Fig. 17) than that of Berrange. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Berrange to have the connection point for the lifting arrangement higher, as taught by Jeffrey, so that the lifting arm is located above the drag link, as an equivalent structure for a lifting arrangement well known in the art. Further, this combination would result in the piston mechanism operable to displace the lifting arm between a first position, in which the lifting formation is spaced from the axle assembly to be engaged thereby, and a second position, in which the lifting formation is engaged with the axle assembly and the non-round roller is thereby raised with respect to

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the chassis structure to a level at which it is spaced above the ground on which the chassis structure is supported by its wheels (Berrange, col. 3, lines 35-41; col. 4, lines 1-8; Fig. 3).



Regarding claim 2, the combination above discloses an apparatus as previously set forth, but fails to disclose that the depending lifting formation of the lifting arm of the lifting arrangement is formed to engage the drag link via an engagement formation on the link. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of the combination above to have the depending lifting formation formed to engage the drag link via an engagement formation on the link, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re.*

*Japikse, 86 USPQ 70.*

Regarding claim 3, the combination above would result in depending lifting formation of the lifting arm of the lifting arrangement formed to engage the axle assembly via an engagement formation on the assembly (see discussion for claim 1).

Regarding claim 4 as best understood, the combination above would result in the piston of the piston/cylinder mechanism having a stroke that provides for the required displacement of the lifting arm between its first and second positions, the first position of the lifting arm providing for a spacing between the depending lifting formation and the engagement formation to be engaged thereby, to permit operation of the compactor without mechanical interference by the lifting arrangement (see discussion for claim 1).

Regarding claim 5, Berrange discloses that pieces are interfitted with each other in order to provide the clearance needed for movements (col. 3, lines 60-68). In view of this teaching, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide for compact arrangement of components, therefore resulting in the depending lifting formation of the lifting arm extending through a space provided therefor by the drag link.

Regarding claim 6, Berrange discloses that the piston/cylinder mechanism forming part of the lifting arrangement is hydraulically operable (col. 3, line 36) and its operation is inherently controllable by an operator of the compactor.

Regarding claim 7, Berrange discloses that the end of the piston/cylinder mechanism supported on the chassis structure is pivotally supported via a formation provided therefor on the chassis structure, in the location of the general plane of the chassis structure (as seen in fig. 3, col. 4, lines 21-23).

Regarding claim 8, the combination above would result in the lifting arm of the lifting arrangement pivotally displaceable between its first and second positions.



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Regarding claim 9, the combination above would result in the lifting arm being pivotally supported on the drag link at a location near the pivotally located end of the drag link.

Regarding claim 10, the combination above would result in the lifting arm pivotally supported on a component of the compactor other than the drag link (the axle assembly 14, Fig. 3 of Berrange).

Regarding claim 11 as best understood, the combination above would result in the lifting arm pivotally supported on the component at a position near the pivotally located end of the drag link (Fig. 3 of Berrange).

Regarding claim 12 as best understood, the combination above would result in the end of the piston/cylinder mechanism connected to the lifting arm pivotally connected thereto at a location near the end of the lifting arm remote from the end thereof that is pivotally supported (Fig. 3 of Berrange).

Regarding claim 13, Berrange discloses that the impact compactor is configured to be towed by a tractor for its operation (col. 3, lines 10-12).

Regarding claim 14, Berrange discloses that the impact compactor is self-propelled (col. 5, lines 22-25).

Regarding claim 16 as best understood, Berrange discloses that the non-round roller is a single roller and the apparatus includes a pair of lifting arrangements, disposed on opposite sides of the roller (as seen in Fig. 4).

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**Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berrange 3,966,346 in view of Jeffery 4,147,448, as applied to claim 1 above, and further in view of Berrange 5,562,365.**

Regarding claim 15 as best understood, the combination above discloses an apparatus as previously set forth, but fails to disclose a pair of non-round rollers, in which the axle assembly carried by the drag link and the lifting arrangement are disposed between the rollers. Berrange '365 teaches that it is well known in the art to have a pair of non-round rollers (12, Figs. 1 and 2), in which the axle assembly carried by the drag link and the lifting arrangement are disposed between the rollers (as seen in Fig. 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of the combination above to have a pair of non-round rollers, as taught by Berrange '365, in which the axle assembly carried by the drag link and the lifting arrangement are inherently disposed between the rollers, since this is a structure well known in the impact compactors art.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALINA SCHILLER whose telephone number is (571)270-3088. The examiner can normally be reached on Mon-Fri, 7:30AM-4:00PM EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on (571)272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas B Will/  
Supervisory Patent Examiner  
Art Unit 3671

AS  
4/22/2008